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ELECTION COMMISSION MINUTES

July 9, 2012

The Norman Election Commission of the City of Norman, Cleveland County, Oklahoma, met in the Municipal Building Conference Room at 201 West Gray on the 9th day of July, 2012, at 2:00 p.m. Notice and agenda of the meeting were posted at the Municipal Building 48 hours prior to the beginning of the meeting.

Item 1. Roll Call. City Clerk Hall called the roll.

MEMBERS PRESENT:

Robin Allen
Nina Flannery
Richard Hilbert
Chairman Ty Hardiman

MEMBERS TARDY:

Elizabeth Windes

STAFF PRESENT:

Kristina Bell, Assistant City Attorney
Jeff Bryant, City Attorney
Brenda Hall, City Clerk

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Item 2. Approval of minutes from the June 25, 2012, meeting. Member Hilbert moved that the minutes from the June 25, 2012, meeting be approved, which motion was duly seconded by Member Flannery;

Items submitted for the record

- 1. Norman Election Commission minutes of June 25, 2012

and the question being upon approving the minutes from the June 25, 2012, meeting, a vote was taken with the following result:

YEAS:

Members Allen, Flannery, Hilbert,
Chairman Hardiman

NAYES:

None

Chairman Hardiman declared the motion carried and the minutes from the June 25, 2012, meeting were approved.

Finance of Candidates' Campaign Contributions and Expenditure Reports from CCGOP PAC.

Member Flannery moved that the City campaign contribution and expenditure report for CCGOP PAC be accepted, which motion was duly seconded by Member Hilbert;

Items submitted for the record

1. City Campaign Contributions and Expenditures Report filed June 27, 2012

and the question being upon accepting the City campaign contribution and expenditure report for CCGOP PAC, a vote was taken with the following result:

YEAS: Members Allen, Flannery, Hilbert,
Windes, Chairman Hardiman

NAYES: None

Chairman Hardiman declared the motion carried and the City campaign contribution and expenditure report for CCGOP Pac was accepted.

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Item 4. Continued discussion regarding establishing public finance for City Council candidates.

In the Joint City Council Oversight Committee (CCOC) and Norman Election Commission (NEC) meeting on May 2, 2012, Councilmember Kovach asked the NEC to review the concept of establishing public finance for City Council candidates and forward information and recommendations to City Council.

Chairman Hardiman said had and Member Allen had spoken to Councilmember Kovach to get additional information regarding his request and asked her to summarize that discussion for the other members. Member Allen said Councilmember Kovach wanted an in depth review of public financing that would include public and private funds; information on current states and municipalities that use public financing; and what legal cases have stood up in court. She said Councilmember Kovach felt there are many citizens who do not run for a Council seat because they are afraid they will not be able to raise the money to fund a campaign. Councilmember Kovach would also like information on supplemental funds, matching funds, or seed money so fundraising is not eliminated from the process. Chairman Hardiman said Ms. Brenda Hall, City Clerk, felt seed funding may be difficult with the U.S. Supreme Court ruling in the Arizona case relative to matching funds. Ms. Hall said an option other than seed money could be a petition with a specific number of signatures from their Ward supporting them.



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Chairman Hardiman said Councilmember Kovach clearly feels there would be more qualified candidates that could bring more dimension and diversity into the election process if the difficulty of campaign fundraising was not in the picture. He said even through campaign contributions and expenditures in Norman are less than state or national levels, it still takes a considerable amount of money to fund a campaign. Chairman Hardiman said an election does not necessarily go to the person with the most amount of money, but there is a certain amount of money needed to be a viable candidate.

Ms. Kristina Bell, Assistant City Attorney, summarized her research on the constitutionality of public financing. She said the United States (U.S.) Supreme Court has upheld constitutional public financing schemes that do not include matching grants that allocate additional funds to publicly financed candidates in corresponding amounts responsive to funds raised by their privately funded opponents. In the Arizona case Ms. Hall mentioned, the Court found matching expenditures of a candidate's opponent to be unconstitutional. She said the Court found that matching fund provisions substantially burden the political speech of the privately funded candidates as well as independent groups supporting that candidate. She said it appears implementation of a voluntary public financing of City Council candidates that did not include any matching grant provisions could pass constitutional muster based on current U. S. Supreme Court precedent. She said the U.S. Supreme Court has not held that public financing in general is unconstitutional and has upheld various reasonable restrictions, such as reasonable restriction on contribution limits, disclosure requirements, and threshold qualifying requirements. Certain specific provisions or implementing regulations could pose other potential constitutionality issues and would have to be reviewed individually once a draft proposal has been developed.

Ms. Bell said she found no cases regarding the use of seed money, but there have been instances where other communities using public funding have required candidates to submit a petition with a specific number of signatures and specific amount of money from each person as qualification.

Chairman Hardiman asked Ms. Bell if she had found any information that State law prohibited public financing. Ms. Bell said her research had been more focused on federal perspective; however, she did search Oklahoma case law to see if any public financing provisions had been challenged and found none. She said she has not reviewed Oklahoma Statutes for laws against public financing, but Ms. Hall had contacted the State Ethics Commission and they are not aware of any law that would prohibit public financing.

Members reviewed a summary of the history of City Council Elections from 2000 through 2012. The summary included candidates, contributions, expenditures, and number of votes received, which indicated it is not always the candidate with the most money that wins the election. Chairman Hardiman said the information would be included in the public funding report to Council.



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Chairman Hardiman said he prepared the draft report outline and tried to keep a neutral point-of-view. Member Flannery asked where the funds are supposed to come from and Chairman Hardiman said he left the funding sources area blank for discussion among NEC members. Chairman Hardiman said the three sources of funding he has encountered are private money, tax dollars, and seed money with implementation ideas. Ms. Hall said it would not be difficult to prepare a chart of cities utilizing public finance and how the program works.

Chairman Hardiman said he did not include pros and cons for public funding in his report outline as he felt they are a matter of philosophical and political orientation. He said NEC is not trying to sway whether or not people support public funding, but simply trying to outline the state of public funding in the U.S. He said if public funding was implemented in Norman, there would most likely be public discussion, which could include a public vote if sales tax were to be used. Member Hilbert said he did not think listing pros and cons would be considered advocacy. Chairman Hardiman said he has struggled with the desire to remain neutral. He said if NEC members feels that should be part of the final report, he will support that.

Ms. Joy Hampton, Norman Transcript, said before the NEC puts in a lot of time on a lengthy investigation, did they plan to take the subject to a Council Study Session to see if Council, as a whole, wants NEC to proceed further. Chairman Hardiman said NEC has had that discussion and he felt that, as the body in Norman that tries to represent a fair election process, the NEC should take this opportunity to do the research and present a report. Councilmember Kovach did say there are other Councilmembers who have expressed an interest in public financing.

Chairman Hardiman said with the initial information provided in this meeting, it should not be difficult to develop a summary report for Council. Ms. Hall said public funding information could be included with the NEC's final campaign and contribution report to Council and at that point and time, Council can decide whether or not they want additional information or to send it to a Council committee for discussion.

Chairman Hardiman asked members to review the information distributed today and e-mail ideas or suggestions to him or Ms. Hall. Ms. Hall suggested a review of NEC's final draft of the public funding report outline at the next meeting on Monday, July 23, 2012, prior to its final approval at NEC's meeting on August 20, 2012, and inclusion in the final campaign contribution and expenditure report to Council in September.

Items submitted for the record

1. Summary of City Council Election From 2000-2012
2. Memorandum dated July 9, 2012, from Kristina L. Bell, Assistant City Attorney, through Jeff Harley Bryant, City Attorney, to Norman Election Commission
3. Draft of report outline

Participants in discussion

1. Ms. Brenda Hall, City Clerk
2. Ms. Kristina Bell, Assistant City Attorney
3. Ms. Joy Hampton, Norman Transcript

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The next meeting will be held on Monday, July 23, 2012, at 2:00 p.m.

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Item 6. Adjournment.

Member Hilbert moved that the meeting be adjourned, which motion was duly seconded by Member Flannery; and the question being upon adjourning the meeting, a vote was taken with the following result:

YEAS: Members Allen, Flannery, Hilbert,
Windes, Chairman Hardiman

NAYES: None

Chairman Hardiman declared the meeting be adjourned at 2:57 p.m.